

LABOUR DEPARTMENT

The 8th November, 1978

No. 11(112)-3Lab-78/9462.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Racmann Auto (P) Ltd., 15/3, Mathura Road, Faridabad :—

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA, FARIDABAD

Reference No. 81 of 1976

between

SHRI S. K. MADAN, WORKMAN AND THE MANAGEMENT OF M/S. RACMANN AUTO
(P) LTD., 15/3, MATHURA ROAD, FARIDABAD

Present.—

Shri Darshan Singh, for the workman.

Shri S. L. Gupta, for the management.

AWARD

By order No. ID/FD/961-A-76/16159, dated 5th May, 1976, the Governor of Haryana, referred the following disputes between the management of M/s. Racmann Auto (P) Ltd., 15/3, Mathura Road, Faridabad, and its workman Shri S. K. Madan, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri S. K. Madan, was justified and in order ?
If not, to what relief is he entitled ?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. From the pleadings of the parties, the following issues were framed on 25th October, 1976 :—

(1) Whether the termination of services of Shri S. K. Madan was justified and in order?

(2) Relief?

(3) Whether the workman had raised the dispute direct with the management at the appropriate time?

The case was fixed for the evidence of the parties. The workman examined himself as W.W. 1. He proved several documents Exhibit W—1 to Exhibit W—9. The workman closed this case on issue No. 1.

Then the case was fixed for the evidence of the management. The management examined Shri K. L. Malhotra, their Manager as M.W. 1 who stated that the workman was orally appointed by the management through the mediation of his uncle and he has settled all his dues have been paid. The workman has told him that he had got some better job and he be released. In cross examination he stated that there was no resignation of the workman with them and they did not take any writing from the workman that he wanted to be relieved. The management closed their case.

Then the case was fixed for the evidence of the workman in rebuttal. He examined Shri Hari Kesh Singh, Clerk, of the Labour Inspector who had brought the complaint of the workman to the effect that the management had forcibly paid him his dues and put him on un-employment. The complaint further read that the management was paying wages late and not at proper time. Then the Labour Inspector had inspected the factory. The management showed him vouchers of payment. He found that the senior staff had been paid wages upto 1st May, 1976 for the month of March, 1976 and that other wages were paid that the expiry of 7th or 10th day of the last day of his period.

Then arguments were heard. I have gone through all the evidence of the parties oral as well as documentary, Exhibit W—10 relate to conciliation proceedings and Exhibit W—11 is a letter from

the Labour Commissioner, Haryana. Exhibit W—1 is an application of the workman for payment of wages addressed to the Labour Inspector. Exhibit W—2 is a complaint to the Prime Minister, copies sent to several others. Exhibit W—3 to W—6 are the documents of the post office. Exhibit W—7 is the demand notice. Exhibit M—1 to Exhibit M—3 are the vouchers of payment. They witnessed cash paid to the workman only.

The stand of the management is that the workman himself resigned his job. This is not proved by them at all. There is an oral statement of M. W. 1 to that effect. I, therefore, give my finding issuewise.

Issue No. 1.—The discussion of evidence as given above concludes that the workman did not resign his job. When the workman did not resign his job, and the management does not state that the workman is still in their employment, the termination of service of the workman has come in operation. I, therefore, hold that the management had terminated the services of the workman. The management had not pleaded justifiability of termination of service, nor lead any evidence that termination was justified by them. I, therefore, decide this issue against the management.

Issue No. 2.—Exhibit W—7 is the demand notice addressed to the Manager of the management which was sent under certificate of posting. I, therefore, decide that the workman raised the demand with the management at appropriate time. The demand notice is dated 3rd February, 1976 and the service of the workman were terminated on 2nd January, 1976. I, therefore, decide issue No. 2 in favour of the workman.

As a result of my finding on these issues, I answer the reference and give my award that the termination of services of the workman was neither justified nor in order. I set aside the said termination of his service. The workman is entitled to reinstatement with continuity of service and with full back wages.

NATHU RAM SHARMA,

Dated 20th October, 1978.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 969, dated 23rd October, 1978

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

M. KUTTAPPAN, Secy

P. W. D. PUBLIC HEALTH BRANCH

The 27th October, 1978

No. 1 (a) (1)-14-78-PWIII(1).—The Governor of Haryana is pleased to declare the superintendent of Public Works Department, Public Health Branch who has been placed in the scale of Rs 500—30—650/30—800—50—850 as Class II Gazetted officer with effect from the 24th July, 1975.

V. P. JOHAR,

Financial Commissioner and Secretary,

(BUILDINGS & ROADS)

The 3rd November, 1978

No. 1 (c)(1)-(5)-78/PWIII (2).—On his promotion to the post of Senior Architect in the pay scale of Rs. 1,600—50—1,800 100—2,000 Shri V. P. Arora, took over charge of the said post on 28th July, 1978 (forenoon)

V. K. SIBAL,
Commissioner and Secy.